UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

PILOT TRAVEL CENTERS, LLC, d/b/a PILOT FLYING J

Employer

and Case 22-RC-128749

LOCAL 108, RETAIL, WHOLESALE & DEPARTMENT STORE UNION, UNITED FOOD & COMMERCIAL WORKERS Petitioner

ORDER

The Employer's Request for Review of the Acting Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review.¹

MARK GASTON PEARCE, CHAIRMAN

PHILIP A. MISCIMARRA, MEMBER

We agree with the Acting Regional Director's rejection of the Employer's contention that Food Service Leader IIIs are statutory supervisors because of their role in evaluating team members. In doing so, we find that the Employer has not shown that the Food Service Leader IIIs have or will prepare the evaluations themselves or that they will have the final say over the content of the evaluations. The Employer also failed to establish how any decisions regarding the wage increases or job status of team members are or will be made or show that such decisions about wage increases or promotions are solely based on the feedback of the Food Service Leader IIIs. Indeed, the Employer concedes that the restaurant general manager is involved in the evaluations of team members. Finally, no team member has yet been evaluated.

Member Miscimarra believes the Acting Regional Director defined too narrowly the standard for evaluating accountability (part of the analysis regarding whether a Food Service Leader III engages in responsible direction), see *Community Education Centers, Inc.*, 360 NLRB No. 17, slip op. at 2 (2014) (Mbr. Miscimarra, dissenting in part), but he agrees that the record fails to establish that employees in that position satisfy the requirements of accountability and responsible direction for purposes of supervisory status under Sec. 2(11).

¹ In denying review, we note that the Food Service Leader III classification is the only one at issue in this case.

KENT Y. HIROZAWA, MEMBER

Dated, Washington, D.C., July 18, 2014.